

**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Listing Hay's Spring Amphipod as an Endangered Species**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines Hay's Spring amphipod (*Stygobromus hayi*) to be an endangered species. Survival of this aquatic crustacean is endangered by threatened modification of its habitat by flooding and construction activities and by overcollection for scientific purposes. Hay's Spring amphipod occurs only in a single spring within the National Zoological Park in Washington, D.C. The rule provides protection for wild populations of this species.

**DATE:** This rule becomes effective on March 8, 1982.

**ADDRESSES:** Questions concerning this action may be addressed to Director (OES), U.S. Fish and Wildlife Service, Department of Interior, Washington, D.C. 20240. Comments and materials relating to this rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:**

For further information on the final rule, contact Mr. John L. Spinks, Jr., Chief, Office of Endangered Species (703/235-2771).

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 12, 1977 (42 FR 2507-2515), the Service proposed Endangered status for *Stygobromus* (-*Synpleona*, -*Stygonectes*) *hayi* (Hubricht and Mackin, 1940) under the common name "Hay's Spring scud". This proposal was withdrawn on December 10, 1979 (44 FR 70796-70797), following expiration of a time limit on pending proposals which was imposed by the 1978 Amendments to the Endangered Species Act of 1973. Endangered status was repropoed for Hay's Spring amphipod on July 25, 1980 (45 FR 49850-49851), following a re-examination of its habitat. A complete summary of the status of this species and comments on the original proposed listing of this species were summarized in the reproposal.

The reproposal advised that sufficient evidence was on file to support a determination that Hay's Spring amphipod was an endangered species pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). That proposal summarized the factors thought to be contributing to the likelihood that the species could become endangered within the foreseeable future. Hay's Spring amphipod is found only in a small Spring within the National Zoological Park. The spring emerges from the rocky western wall of Rock Creek Valley and flows about 35 m into Rock Creek. The portion of the spring inhabited by Hay's Spring amphipod is less than 1 meter wide. The extremely small size of this habitat makes the species exceptionally vulnerable to construction activities, which have drastically reduced the number of springs in Washington (Williams, 1977). The proposed rule also specified the prohibitions which would be applicable if such a determination were made; and solicited comments,

suggestions, objections, and factual information from any interested person.

A letter was sent to Mayor Barry of the District of Columbia on July 30, 1980 notifying him of the proposed rulemaking for Hay's Spring amphipod. On July 3 and July 30, 1980, letters were sent to appropriate Federal agencies and other interested parties notifying them of the proposal and soliciting their comments and suggestions. Comments were received from Mr. S. Dillon Ripley, Secretary of the Smithsonian Institution; and from the National Park Service, National Capital Region.

#### Summary of Comments and Recommendations

In the July 25, 1980, Federal Register proposed rule (45 FR 49850-49851), all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rule.

Public comments received from July 25, 1980, through October 23, 1980, were to be considered. However, no public comments were received.

Mr. S. Dillon Ripley, Secretary of the Smithsonian Institution, commented that Smithsonian Institution staff had reviewed the Draft Environmental Assessment on this proposal and have no objections or comments on the biological conclusions. Mr. Ripley stated that the Smithsonian Institution will continue its efforts to protect the species and that there are no plans to modify the area near the spring habitat at this time.

The National Park Service commented that they supported the proposed listing of Hay's Spring amphipod as Endangered and offered their cooperation in the protection of this and other species in the Rock Creek watershed.

After a thorough review and consideration of all the available information, the Director has determined that Hay's Spring amphipod is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

The summary of factors affecting the species, as required by Section 4(a) of the Act and published in the Federal Register of July 25, 1980 (45 FR 49850-49851), are reprinted below. These factors are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Usually high flood levels from Rock Creek reach the level of the spring habitat of Hay's Spring amphipod. This level has been flooded with increasing frequency in recent years (CHM Hill, 1979). Flood

waters may adversely affect the spring habitat by removing individual amphipods, as well as the leaves and soft bottom sediments that form their microhabitat, from the spring.

Construction activities, if not carefully carried out, could adversely affect or eliminate the spring habitat. Such activities have eliminated most of Washington's springs during the last 100 years (Williams, 1977). Possible use of the level are just below the spring for parking or equipment storage is now in advanced planning. Although a small fence now surrounds the spring, the significance of this structure could easily be overlooked during parking lot construction. The spring is so small that careless movement of equipment slightly onto the hillside from which the spring flows could have a catastrophic effect on the habitat.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Only a few scientific specialists are potential collectors of Hay's Spring amphipod. Dr. John R. Holsinger (unpublished report; May 11, 1978) has expressed concern about future collecting. Even this modest collecting pressure presents a danger to this extremely rare species.

3. *Disease and predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* Although the National Zoological Park has voluntarily fenced the habitat of this species and alerted personnel to its significance, there is no legal protection for the species.

5. *Other natural or man-made factors affecting its continued existence.* Not applicable.

#### Critical Habitat

Designation of Critical Habitat for Hay's Spring amphipod would not be prudent. Publication of a map and description of the exact locality, which is required for Critical Habitat designation, could expose the species to destruction of its habitat by vandalism and unauthorized taking. The habitat is within a densely populated urban area. The small size of the species' population and habitat, as well as the fragile nature of the habitat, makes the species vulnerable to isolated acts of vandalism.

#### Effects of the Rule

Endangered species regulations already published in Title 50 § 17.21 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United

States to take, import, or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

This rule requires Federal agencies to insure that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of Hay's spring amphipod. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

#### National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240. (703/235-1975).

Note.—The Department of the Interior has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12291 and 43 CFR Part 14.

#### References

- CH2M Hill. 1979. *Draft Rock Creek Watershed Conservation Study*. Prepared for Department of the Interior, National Park Service.
- Holsinger, J. R. 1977. A review of the systematics of the holarctic amphipod family Crangonyctidae. *Proceedings of the 3rd International Colloquium on Gammarus and Niphargus*, Schlitz, West Germany, 1975. *Crustaceana* (supplement), 4: 244-281.
- Holsinger, J. R. 1978. Systematics of the subterranean amphipod genus

*Stygobromus* (Crangonyctidae), Part II:  
Species of the Eastern United States.  
Smithsonian Contributions to Zoology No.  
266. 144 pp.  
Hubricht, L. and J. G. Macklin. 1940.  
Descriptions of nine new species of

freshwater crustaceans, with notes and  
new localities for other species. American  
Midland Naturalist 23: 187-218.  
Williams, G. P. 1977. Washington, D.C.'s  
vanishing springs and waterways.  
Geological Survey Circular 752.

### Regulations Promulgation

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, Part 17, Subpart B, Title 50 of the Code of Federal Regulations is amended as set forth below:

1. Section 17.11(h) is amended by adding in alphabetical order under "Crustaceans", the following to the List of Endangered and Threatened Wildlife:

### § 17.11 [Amended]

(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
<i>Stygobromus hayi</i> .....	Amphipod, Hay's spring.	USA (DC) .....	E .....	March 8, 1982 .....	NA .....	NA.

Dated: January 28, 1982.

F. Eugene Hester,  
Acting Director, Fish and Wildlife Service.

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